

Page 1 of 2

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-0506-WQ-E TCEQ ID: RN104726831 CASE NO.: 29041
RESPONDENT NAME: ROBERT DURHAM DBA A & A AUTO PARTS AND REBUILDERS

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 7752 Mansfield Highway, Kennedale, Tarrant County</p> <p>TYPE OF OPERATION: Automobile salvage yard</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on January 23, 2006, alleging that A & A Auto Parts and Rebuilders was not complying with the Multi-Sector Industrial General Permit. The complaint also alleged that A & A Auto Parts and Rebuilders did not submit a Notice of Termination when the facility moved its operation to another location. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: One complaint relating to this case has been received but the complainant has not indicated a desire to protest this action or speak at Agenda. No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 15, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 20px;">TCEQ Attorney: Mr. Gary K. Shiu, Litigation Division, MC R-12, (713) 422-8916 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p style="margin-left: 20px;">TCEQ Enforcement Coordinator: Ms. Merrilee Gerberding Hupp, Waste Enforcement Section, MC.169, (512) 239-4490</p> <p style="margin-left: 20px;">TCEQ Regional Contact: Mr. Sid Slocum, DFW Regional Office, MC R-4, (817) 588-5901</p> <p style="margin-left: 20px;">Respondent: Mr. Robert Durham, Owner, A & A Auto Parts and Rebuilders, P.O. Box 558, Crowley, Texas 76036-0558</p> <p style="margin-left: 20px;">Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: January 23, 2006</p> <p>Dates of Investigations Relating to this Case: March 1, 2006 and May 5, 2006</p> <p>Date of NOE Relating to this Case: March 24, 2006</p> <p>Background Facts: The EDPRP was filed on October 30, 2006. The Respondent filed an Answer on November 17, 2006. On May 14, 2007, the Respondent signed an Agreed Order.</p> <p>Current Compliance Status: Respondent no longer owns or operates the Facility. The only remaining technical requirement involves payment of outstanding fees to the TCEQ, including associated penalties and interest.</p> <p>WQ:</p> <p>1. Failed to obtain authorization to discharge storm water associated with industrial activity to water in the state through an individual permit or a Texas Pollution Discharge Elimination System ("TPDES") Multi-Sector General Permit [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c)].</p> <p>2. Failed to pay general storm water permit fees for TCEQ Account No. 20001206 and associated late fees for fiscal years 2003 through 2005 [30 TEX. ADMIN. CODE § 21.4(f) and 30 TEX. WATER CODE § 5.702].</p>	<p>Total Assessed: \$2,040</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$140/\$1,900</p> <p>The Respondent has paid \$140 of the administrative penalty. The remaining amount of \$1,900 shall be payable in 19 monthly payments of \$100 each.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action Taken:</p> <p>The Executive Director recognizes that the Respondent no longer owns or operates the Facility.</p> <p>Ordering Provision:</p> <p>Within 30 days, the Respondent shall submit payment for outstanding fees, including any associated penalties and interest.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	27-Mar-2006	Screening	10-Apr-2006	EPA Due	
	PCW	04-May-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Robert Durham dba A & A Auto Parts and Rebuilders		
Reg. Ent. Ref. No.	RN104726831		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	29041	No. of Violations	2
Docket No.	2006-0506-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Dana Shuler
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	2% Enhancement	Subtotals 2, 3, & 7	\$40
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Notes	The Respondent received a NOV for a dissimilar violation.
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Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
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Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes	The Respondent does not meet the good faith criteria.
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Economic Benefit	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$81
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*Capped at the Total EB \$ Amount

Approx. Cost of Compliance	\$2,000
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SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,040
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes	
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Final Penalty Amount	\$2,040
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,040
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DEFERRAL		Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	A deferral is not offered for non-expedited cases.
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PAYABLE PENALTY	\$2,040
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Reg. Ent. Reference No. RN104726831
Media [Statute] Water Quality
Enf. Coordinator Dana Shuler

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 2%

>> Repeat Violator (Subtotal 3)

No **Adjustment Percentage (Subtotal 3)** 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer **Adjustment Percentage (Subtotal 7)** 0%

>> Compliance History Summary

Compliance History Notes

The Respondent received a NOV for a dissimilar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 2%

Economic Benefit Worksheet

Respondent Robert Durham dba A & A Auto Parts and Rebuilders
 Case ID No. 29041
 Reg. Ent. Reference No. RN104726831
 Media [Statute] Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Description	No commas or \$						

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$2,000	01-Mar-2006	23-Dec-2006	0.8	\$81	n/a	\$81
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs The estimated cost of submitting the Notice of Intent and to prepare a SWP3. Date Required is the investigation date. Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$2,000

TOTAL \$81

Screening Date 10-Apr-2006

Docket No. 2006-0506-WQ-E

PCW

Respondent Robert Durham dba A & A Auto Parts and Rebuilders

Policy Revision 2 (September 2002)

Case ID No. 29041

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104726831

Media [Statute] Water Quality

Enf. Coordinator Dana Shuler

Violation Number 2

Primary Rule Cite(s)

30 Tex. Admin. Code § 21.4(f)

Secondary Rule Cite(s)

Tex. Water Code § 5.702

Violation Description

Failure to pay general storm water permit fees for TCEQ Account No. 20001206 and associated late fees for fiscal years 2003 through 2005.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm		
Release		Major	Moderate	Minor
Actual	OR			
Potential				

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes No penalty is calculated for this violation.

Adjustment -\$10,000

Base Penalty Subtotal \$0

Violation Events

Number of Violation Events

	daily
mark only one	monthly
use a small x	quarterly
	semiannual
	annual
	single event

Violation Base Penalty \$0

No penalty is recommended because penalty and interest will be assessed at the next billing cycle.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Robert Durham dba A & A Auto Parts and Rebuilders

Case ID No. 29041

Reg. Ent. Reference No. RN104726831

Media [Statute] Water Quality

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Description	No commas or \$						

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

N/A

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator:	CN601724461	DURHAM, ROBERT	Classification: AVERAGE	Rating: 2.25
Regulated Entity:	RN104726831	A & A AUTO PARTS AND REBUILDERS	Classification: AVERAGE	Site Rating: 1.50
ID Number(s):				
Location:	7752 MANSFIELD HWY, KENNEDALE, TX, 76060		Rating Date: 9/1/2005 Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	May 05, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 03, 2001 to May 03, 2006			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Dana Shuler		Phone:	(512) 239-2505

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A

- B. Any criminal convictions of the state of Texas and the federal government.
N/A

- C. Chronic excessive emissions events.
N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- 1 12/29/2005 (436039)
 - 2 08/26/2005 (406765)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/29/2005 (406765)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter B 111.201

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to comply with the general prohibition on outdoor burning within the State of Texas.

- F. Environmental audits.
N/A

- G. Type of environmental management systems (EMSs).
N/A

- H. Voluntary on-site compliance assessment dates.
N/A

- I. Participation in a voluntary pollution reduction program.
N/A

- J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ROBERT DURHAM
DBA A & A AUTO PARTS AND
REBUILDERS; RN104726831**

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§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2006-0506-WQ-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Robert Durham dba A & A Auto Parts and Rebuilders ("Mr. Durham") under the authority of TEX. WATER CODE chs. 5, 7, and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Durham appear before the Commission and together stipulate that:

1. At the time of the violations, Mr. Durham owned and operated an automobile salvage yard located at 7752 Mansfield Highway, Kennedale, Tarrant County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 5 and 26 and TCEQ rules.
3. The Commission and Mr. Durham agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Durham is subject to the Commission's jurisdiction.
4. Mr. Durham received notice of the violations alleged in Section II ("Allegations") on or about March 29, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Durham of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of two thousand forty dollars (\$2,040.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr.

Durham has paid one hundred forty dollars (\$140.00) of the administrative penalty. The remaining amount of one thousand nine hundred dollars (\$1,900.00) shall be payable in nineteen (19) monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment. If Mr. Durham fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the acceleration of any remaining balance constitutes the failure by Mr. Durham to timely and satisfactorily comply with all the terms of this Agreed Order and the Executive Director may demand payment of any deferred penalty amount.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. Durham have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Mr. Durham no longer owns or operates an automobile salvage yard located at 7752 Mansfield Highway, Kennedale, Texas.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Durham has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

Mr. Durham is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c) by failing to obtain authorization to discharge storm water associated with industrial activity to water in the state

through an individual permit or a Texas Pollution Discharge Elimination System ("TPDES") Multi-Sector General Permit, as documented on March 1, 2006.

2. 30 TEX. ADMIN. CODE § 21.4(f) and TEX. WATER CODE § 5.702 by failing to pay general storm water permit fees for TCEQ Account No. 20001206 and associated late fees for fiscal years 2003 through 2005, as documented on May 5, 2006.

III. DENIALS

Mr. Durham generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Durham pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Durham's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Robert Durham dba A & A Auto Parts and Rebuilders, Docket No. 2006-0506-WQ-E", to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Mr. Durham shall, within 30 days after the effective date of this Agreed Order, submit payment for outstanding fees, including any associated penalties and interest and with the notation, "Robert Durham dba A & A Auto Parts and Rebuilders, Account No. 20001206", to the address indicated in Section IV, Paragraph 1, above.
3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Durham.
4. If Mr. Durham fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Durham's failure to comply is not a violation of this Agreed Order. Mr. Durham shall have the burden of establishing to the Executive Director's

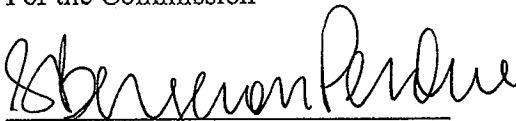
satisfaction that such an event has occurred. Mr. Durham shall notify the Executive Director within seven days after Mr. Durham becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Durham shall be made in writing to the Executive Director. Extensions are not effective until Mr. Durham receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Durham in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Durham, or three days after the date on which the Commission mails notice of the Order to Mr. Durham, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

7/17/07

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



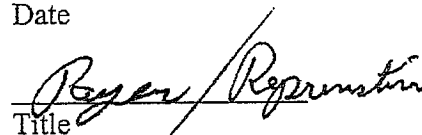
Signature

5-14-07
Date

Robert Durham

Name (Printed or typed)

Authorized representative of
Robert Durham dba A & A
Auto Parts and Rebuilders



Title